NO. 72-1116

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

ALINE BEATRICE McCLOUD, *Petitioner*

v.

ELDRIGE STANLEY BRANCH, ET AL, *Respondents*

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

MEMORANDUM BRIEF IN OPPOSITION FOR THE DEFENDANTS, B. L. CALLIES, A. H. VOGT, G. M. STEVENS, and JULES BOHNN

The jurisdictional statement filed in the application herein fails to properly state the nature of this proceeding and the question presented for appeal. As such, the Petition for a Writ of Certiorari clearly fails to comply with Rule 15 of the Rules of the Supreme Court of the United States.

Petitioner herein has filed this and a number of other lawsuits against these Defendants and many of the other Defendants named herein, alleging violations of some or all of the Civil Rights Acts of the United States, because of an alleged conspiracy against her of enormous proportions, including the District Court Judges who have dismissed some of her many cases. In each case, the Petitioner has proceeded *pro se* or sought to proceed *in forma pauperis.*

In dismissing the instant case, the District Court Judge determined that the Complaint was frivolous and that a substantial Federal question was lacking.

The Complaint filed in this case (styled a "Petition") consists of some 322 pages of vague, incoherent and conclusionary allegations, the substance of which made it patently impossible for Defendants to frame responsive answers.

The Complaint ("Petition") prays for damages in the amount of Two Billion Five Hundred Million Dollars ($2,500,000,000). The damages sought in the other "Petitions" filed in the other actions seek recoveries in the trillions of dollars, and are equally vague, incoherent and conclusionary.

Respondents would submit that the District Courts have the power to dismiss an action that is frivolous when same clearly appears from the face of the pleadings. *Fletcher v. Young,* 222 F.2d 222 (4th Cir. 1955) *cert. denied,* 76 S.Ct. 201, 350 U.S. 916, 100 L.Ed. 802 (1955).

These Respondents would submit that while Congress did intend to extend to poor and meritorious suitors the

privilege of having their cases handled without the ordinary burdens of litigation by allowing them to proceed *in forma pauperis,* at the same time there is a clear intention to safeguard members of the public against abuses by people who are seeking to use the Courts for vexatious and frivolous legal proceedings.

> "While it is the recognized duty of the Court to be alert to the protection of indigents in their lawful rights, this does not mean that it must open its forum to obviously frivolous and dubious claims under whatever guise they may be presented." *Spears v. United States,* 266 F. Supp. 22 (W. Va., 1967); at 26.

It has long been held that frivolous and fruitless litigation should be ceased when the fact becomes apparent. *Kinney v. Plymouth Rock Squab Co.,* 35 S.Ct. 236, 236 U.S. 43, 59 L.Ed. 457 (1915).

The Petition for Writ of Certiorari should be denied.

Respectfully submitted,

ANDREWS, KURTH, CAMPBELL & JONES

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 9 day of March, 1973, he served a true and correct copy of

the foregoing Memorandum Brief in Opposition for the Defendants by Certified Mail, Return Receipt Requested to:

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